

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -JANUARY 4, 2005- -7:30 P.M.

Mayor Johnson convened the Regular Meeting at 7:53 p.m.

ROLL CALL - Present: Councilmembers Daysog, deHaan, Gilmore, Matarrese and Mayor Johnson - 5.

Absent: None.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(05-003) Presentation on the basic requirements for an Indian Tribe to operate a Casino in California.

The Assistant City Attorney provided a brief report on the basic requirements to conduct tribal gaming.

Mayor Johnson stated that the purpose of the presentation was to inform the public on the required process for the Koi Tribe to obtain approval for a casino; stated that presentation tapes would be available for public review and that the public should direct questions to the City Attorney's office.

Michael Scholtes, Bay Isle Pointe Home Owners Association, stated that he opposes the proposed casino.

Mayor Johnson requested staff to place a resolution opposing the proposed casino on the next City Council agenda.

Rosemary Cambra, Mowekma Ohlone Tribe of the San Francisco Bay Area, submitted a handout and cautioned the Council on taking a stance against the proposed casino.

Councilmember Daysog stated that Council would need to exert pressure and fight on behalf of the City.

CONSENT CALENDAR

Mayor Johnson announced that the recommendation to approve Agreement between the Alameda Unified School District and the City of Alameda [paragraph no. 05-010], the Resolution Authorizing Open Market Purchase [paragraph no. 05-012], and the Ordinance Amending the Alameda Municipal Code [paragraph no. 05-016] were removed from

the Consent Calendar for discussion.

Councilmember Matarrese moved approval of the remainder of the Consent Calendar.

Councilmember Daysog seconded the motion, which carried by unanimous voice vote - 5.

(*05-004) Minutes of the Special and Regular City Council Meetings held on December 21, 2004. Approved.

(*05-005) Ratified bills in the amount of \$4,037,089.03.

(*05-006) Recommendation to award Contract in the amount of \$127,102.65 to Stewart & Stevenson for Ferry Vessel Reduction Gears, No. P.W. 10-04-15. Accepted.

(*05-007) Recommendation to terminate the Contract with J.W. Riley & Son, Inc. for Alameda Point Multi Use Field, No. P.W. 12-02-18 and authorize project completion. Accepted.

(*05-008) Recommendation to award Contract in the amount of \$45,000 to Maze and Associates for Financial Modeling Services. Accepted.

(*05-009) Recommendation to accept Annual Review of the Affordable Housing Ordinance. Accepted.

(05-010) Recommendation to approve Agreement between the Alameda Unified School District and the City of Alameda for Use and Development of Real Property at the K-8 School and Park site in the Bayport Residential Development Project.

Mayor Johnson stated that the Agreement facilitates the goal for having the school and the park built near the Bayport residential area.

Councilmember deHaan inquired whether there is funding for the Preschool and Tiny Tots at the Community Building, to which the Recreation and Parks Director responded in the affirmative.

Councilmember Matarrese moved approval of the staff recommendation.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

(*05-011) Recommendation to accept the Bayport Residential Interim 115Kv overhead power line improvements and authorize recording a Notice of Completion. Accepted.

(05-012) Resolution No. 13807, "Authorizing Open Market Purchase from Allied Sweepers, Inc., Pursuant to Section 3-15 of the Alameda City Charter, of Green Machine Sidewalk Cleaning Equipment." Adopted.

Sherri Stieg, West Alameda Business Association (WABA), thanked the Council for their efforts with the Webster Street project.

Vice Mayor Gilmore stated that she was happy to see the project progressing; she would like to see the trees replaced as soon as possible.

Councilmember deHaan stated that he is pleased with the progress; requested periodic progress reports on the Streetscape Project.

Mayor Johnson stated schedule updates should continue to be provided.

Councilmember Matarrese moved adoption of the resolution.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

(*05-013) Resolution No. 13808, "Approving Parcel Map No. 8401 (2340 and 2350 North Loop Road)." Adopted.

(*05-014) Resolution No. 13809, "Reappointing T. David Edwards as Trustee of the Alameda County Mosquito Abatement District." Adopted.

(05-015) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Subsection 3-28.9 (Payment In-Lieu of Taxes - PILOT); Adding a New Subsection 3-28.10 (Return on Investment in Enterprise Funds) of Section 3-28 (Payment of Taxes) of Chapter III (Finance and Taxation) and Adding a New Subsection 18-4.10 (Exemptions) of Section 18-4 (Sewer Service Charge) of Article I (Sewers) of Chapter XVIII (Sewer and Water). Introduced.

Councilmember Daysog stated that increasing the Return on Investment (ROI) to 3% could cause some impacts; encouraged the Council not to vote tonight and place the matter as an action item for the next City Council meeting; \$782,000 would be received from

Alameda Power & Telecom (AP&T) by staying at the original proposal of 1% ROI; if the \$782,000 is relayed back to the rate payer, the monthly bill could be increased from \$1.53 to \$2.03.

The Interim City Manager stated the Ordinance requires two readings and would automatically be placed on the next agenda for discussion.

Councilmember Daysog stated that matters relating to potential rate increases should be addressed as an action item.

Mayor Johnson inquired whether there would be rate increases, to which the Finance Director responded there would be no rate impact for the first year and that staff is currently working to mitigate any impact for the second year.

Mayor Johnson stated that Council is not voting to increase AP&T or Golf rates; Council can continue to review and make adjustments if necessary.

The Interim City Manager stated that the ROI recommended would not have an impact on rates.

Councilmember Matarrese requested that budgetary items be placed on the regular agenda in the future.

Councilmember Daysog moved introduction of the ordinance with direction that the matter be brought back to Council if there would be any cause for rate increases.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote - 5.

(*05-016) Introduction of Ordinance Amending the Alameda Municipal Code by Adding a New Section 3-91 (City of Alameda Community Benefit Assessment Procedure Code) to Article VI (City of Alameda Improvement Procedure Code) of Chapter III (Finance and Taxation). Introduced.

REGULAR AGENDA ITEMS

(05-017) Recommendation to reappoint Mary Rudge as Alameda's Poet Laureat.

The Recreation and Parks Director outlined the nomination process.

Lisa Piatetsky, Executive Director Alameda City Art Council, stated that she looks forward to having Ms. Rudge continue as Alameda's Poet Laureat.

Mary Rudge, Alameda, submitted a handout; outlined poet activities; thanked the Council for acknowledging and encouraging poetry.

Nina Serrano, Alameda County Arts Commission, commended the Council for having a Poet Laureat.

Mosetta Rose London, Alameda, thanked the Council for the dedication of the O'Club to Al DeWitt and for placing her poem on a plaque at the O'Club; read a poem that she wrote.

Nanette Bradley Deetz, Alameda Island Poets, read a poem that she wrote about Alameda.

Ken Peterson, Vice President, Alameda Island Poets, stated the program has been a tremendous success for poetry and for the City.

Councilmember Daysog moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-018) Public Hearing to consider an Appeal of the Planning Board's denial of Major Design Review DR04-0013 and Variances V04-0005, V04-0015, V04-0016, V04-0017 to permit the construction of a rear deck and garage addition that was completed without City permits. The rear deck measures thirty inches in height from grade to the top surface of the deck and is built up to the south (left side) and west (rear) property lines. The garage addition is an expansion of the existing single-family dwelling up to the north (right side) and west (rear) property lines. The Applicant is requesting four (4) Variances to permit the construction of the work completed without permit including: 1) Variance to Alameda Municipal Code (AMC) Subsection 30-5.7(c)(2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the south side and rear property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height; 2) Variance to AMC Subsection 30-5.7(e)(1) to construct an unenclosed stair and landing up to the south side property line with zero setback, where a minimum three foot setback is required for unenclosed stairs and landings; 3) Variance to AMC Subsection 30-4.4(d)(7) to construct an attached garage addition that extends the main dwelling up to the rear property line with zero setback where a minimum twenty foot setback is required for rear yards; 4) Variance to AMC Subsection 30-4.4(d)(6) to construct an attached garage addition that extends the main dwelling up to the north side property line with zero setback where a minimum five foot setback is required for side yards. The site is located at 913 Oak Street within an R-4, Neighborhood Residential Zoning District. Applicant/Appellant: Fred and Ursula Hoggenboom; and

(05-018A) Resolution No. 13810, "Upholding the Planning Board's Denial of Major Design Review DR04-0013 and Variances, V04-005, V04-0015, V04-0016, V04-0017 for the Structural Expansion of a Single-Family Residence and Construction of Rear Deck at 913 Oak Street." Adopted.

The Supervising Planner provided a presentation on the background of the project.

Vice Mayor Gilmore inquired whether the garage was a two-story structure connected to the house, to which the Supervising Planner responded in the affirmative.

Vice Mayor Gilmore inquired whether the garage was intended to be more than a one-car garage, to which the Supervising Planner responded that the plans indicate a one-car garage with storage on the left side.

Vice Mayor Gilmore inquired whether there was a proposal for the upstairs portion of the garage, to which the Supervising Planner responded the photographs show an attic with a couple of chairs and table.

Vice Mayor Gilmore stated the garage doors are smaller than the width of the driveway; there is a vent pipe that comes down along the side of the house and protrudes into the driveway which would make it very difficult for a car to enter the garage.

The Supervising Planner stated many driveways are challenging in terms of access.

Vice Mayor Gilmore stated that she is concerned with the intent of using the garage for the proposed use.

The Supervising Planner stated that the Parking Ordinance requires that garages be kept free of structures to accommodate a vehicle.

Vice Mayor Gilmore stated that the garage could abut the property line if detached from the house; once the garage is attached to the house, there are side and backyard setback issues.

The Supervising Planner stated the Code allows for garages to abut both the side and rear property lines under certain circumstances; the front of the garage needs to be 75 feet from the front property line and there needs to be a 5-foot separation between the main house and the garage; a detached garage could comply with the 75-foot regulation; she is not sure about compliance with the 5-foot

separation because there is a small addition at the rear of the house which might result in less than a 5-foot separation; a smaller detached garage might require a modest variance.

Mayor Johnson inquired what was the square footage of the garage, to which the Supervising Planner responded approximately 300 square feet.

Mayor Johnson inquired what was the square footage of a typical garage, to which the Supervising Planner responded a one-car garage would be approximately 200 square feet.

Mayor Johnson inquired why the garage was larger than a typical garage, to which the Supervising Planner responded that the residents wanted storage.

Mayor Johnson inquired when the original garage was demolished, to which the Supervising Planner responded possibly a few years ago.

Councilmember Matarrese inquired whether there was a deck variance involved.

The Supervising Planner responded that the deck required a variance because it is 28 inches from the grade; decks 12 inches from the grade or less are allowed to encroach into yards; decks between 12 and 30 inches require a 3-foot separation from the side and rear property line; there is an opportunity to modify the deck by either reducing the height, which would result in a deck that is not level with the house, or by reducing the size of the deck to provide the required set back.

Mayor Johnson inquired whether there was a height limit on backyard fences, to which the Supervising Planner responded the limit is 6 feet for a solid fence and 8 feet for a fence with 2 feet of lattice on top.

Mayor Johnson inquired whether there was an 11-foot fence in the yard, to which the Supervising Planner responded that staff is not clear who owns the fences that surround the property.

Mayor Johnson inquired whether the fence issue would be pursued regardless of tonight's decision, to which the Supervising Planner responded in the affirmative.

Mayor Johnson opened the Public Hearing.

Proponents (In favor of appeal): Fred Hogenboom, Alameda, and Ursula Hogenboom, Alameda.

Opponents (Opposed to appeal): Raymond A. Pacovsky, Sr., Alameda; Raymond S. Pacovsky, Jr., Alameda, and Barbara Kerr, Alameda.

Mayor Johnson stated the initiation of construction without permits makes the permitting process difficult; inquired whether the Appellant informed the Planning Board that the structure was over his property line.

The Appellant responded in the negative; stated that the structure is well within the property line; the structure was moved 2 inches inward from the original garage.

Vice Mayor Gilmore inquired how tall the spa was from the floor of the deck to the top of the spa, to which the Appellant responded three and a half feet at the most.

Vice Mayor Gilmore stated that the Planning staff recommended dropping the deck approximately 12 inches; inquired whether the 12 inches would equate to two steps.

The Appellant stated that he would need to put in three steps to lower the deck 12 inches.

Vice Mayor Gilmore inquired whether accommodating his wife was part of the reason for having the deck the same level as the house.

The Appellant responded that his wife has had two back surgeries and three hip replacements; stairs are difficult for her.

Vice Mayor Gilmore stated there is a two-foot hop to get into the spa which appears to be more difficult to navigate than the stairs out of the house.

Mayor Johnson stated that one of the reasons for deck height limits is because high decks and spas are an intrusion into neighbors' backyards; inquired how the footprint of the original garage was established.

The Supervising Planner responded that the Appellant submitted plans in 1991 for foundation work at the front of the house which indicate that there is a separation between the back of the house; the then existing garage did not seem to be as close as the current plans show.

Mayor Johnson inquired whether the Appellant put siding on the neighbors' structures, to which the Appellant responded that he put sheet metal up to prevent rotting.

Mayor Johnson inquired whether the Appellant asked the neighbors before putting up the sheet metal, to which the Appellant responded in the negative.

Mayor Johnson inquired what would happen if the variances are denied, to which the Supervising Planner responded that two things could happen; the Appellant could work with staff for a solution that would allow a garage and deck that is either fully in compliance or would require a more modest variance or the Appellant could file a lawsuit against the City.

Mayor Johnson inquired whether the Appellant has paid fines, to which the Supervising Planner responded investigative fees and fees for working without the proper planning permits have been charged.

There being no further speakers, Mayor Johnson closed the public portion of the Hearing.

Councilmember Daysog moved adoption of the resolution upholding the Planning Board's decision and denying the Appeal.

Councilmember Matarrese seconded the motion.

Under discussion, Councilmember Matarrese stated there was only one decision that the Planning Board could have made given the circumstances; encouraged the owner to work with the Planning Department to salvage the intent of the project within the requirements of the Code.

Vice Mayor Gilmore stated that she assumes that the Appellants had the best of intentions; the Code clearly specifies detached garage and addition requirements; the project is attempting to be both an addition to the house and a garage; stated future owners could convert the garage into a living space.

On the call for the question, the motion carried by unanimous voice vote - 5.

(05-019) Discussion regarding assistance for tenants at Harbor Island Apartments.

Mayor Johnson stated that rent control issues are not on the agenda tonight but that the public is free to speak under Oral Communications.

The Housing Authority Executive Director gave a brief presentation regarding the assistance provided to the Harbor Island Apartment

tenants.

Speakers: John Sullivan, San Leandro, Mark Harney, Fifteen Asset Management Group; Kathy Lautz, Apartment Owners' Association; Lorraine Lilley, Harbor Island Tenant Association; Eve Bach, Arc Ecology; Tom Matthews, Renewed Hope; Steve Edrington, Renal Housing Association; Delores Wells, Harbor Island Tenant Association (submitted letter); Modessa Henderson, Harbor Island Tenant Association; Mary Green-Parks, Alameda; Gen Fujioka, Asian Law Caucus; Reginald James, Alameda; Michael Yoshii, Alameda; and Bill Smith, Alameda.

Mayor Johnson inquired whether there are a total of 17 units currently occupied, to which Mr. Harney responded there are 17 units that are occupied by tenants with leases; there are 9 units occupied by tenants who have stopped paying rent.

Mayor Johnson inquired whether relocation assistance would still be available to the remaining tenants with leases, to which Mr. Harney responded in the affirmative.

Vice Mayor Gilmore inquired how many Harbor Island Apartment tenants remained in Alameda, to which Mr. Harney responded that he was not certain; not all tenants provided forwarding information.

Councilmember deHaan requested information on the number of Section 8 tenants that remained in Alameda.

Councilmember Matarrese stated that Council wants to know what the immediate issues are in dealing with individuals who are still occupying units at the Harbor Island Apartments and what assistance can be provided; inquired whether there are housing assistance opportunities for the remaining tenants through Community Development programs or Sentinel Fair Housing.

The Community Development Manager responded that the Community Development Block Grant (CDBG) Program contracts with Sentinel Fair Housing and the Red Cross; Sentinel Fair Housing has been involved with a number of the tenants; CDBG funds are also being used to produce new affordable housing units through the Substantial Rehabilitation Program; several of the units would be available to applicants who previously resided at the Harbor Island Apartments; security deposit assistance programs have been funded in the past which allowed Housing Authority tenants to borrow money from the revolving loan fund and repay over time; the fund was depleted as a result of earlier Section 8 problems; another funding cycle would become available in July.

Councilmember Matarrese inquired whether there was a way to work with the Apartment Owners' Association to help the remaining tenants.

The Community Development Manager responded there could be some coordination for specific interventions that may help the tenants; the cash to provide deposits is a longer-term consideration and might be more difficult without reprogramming of funds.

Mayor Johnson requested staff to review loan possibilities.

The City Manager stated that he would work with staff to find solutions.

Councilmember Matarrese stated aggressive action is needed to help the remaining tenants.

Councilmember Daysog stated that most families would like to remain at the Harbor Island Apartments but the courts have ruled otherwise and they must move; the City needs to see what can be done to facilitate the situation in a manner that dignifies the tenants; the Council needs to pursue the best policy that prevents the Harbor Island Apartment situation from happening again.

ORAL COMMUNICATIONS, NON-AGENDA

(05-020) Michael John Torrey, Alameda, stated that the Webster Street construction has posed a danger to bus passengers at the bus stops.

The Assistant City Manager stated that the construction work has been delayed because of the rain; stated he would discuss the situation with the Public Works Director.

(05-021) Reginald James, Alameda, encouraged the reappointment of Mary Rudge as Alameda's Poet Laureat; stated that he was concerned about a sign stating that there may be a possible reproductive harmful environment at the Harbor Island Apartments; stated that there should be another meeting of the Harbor Island Task Force.

(05-022) Bill Smith, Alameda, discussed earthquakes.

COUNCIL COMMUNICATIONS

(05-023) Councilmember Matarrese welcomed Interim City Manager, Bill Norton.

Mayor Johnson welcomed the Interim City Manager to his first

Council Meeting.

ADJOURNMENT

(05-024) There being no further business, Mayor Johnson adjourned the Regular City Council meeting at 11:15 in a moment of silence and sympathy for the tsunami victims in Southeast Asia.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -JANUARY 4, 2005- -6:30 P.M.

Mayor Johnson convened the Special Meeting at 6:30 p.m.

Roll Call - Present: Councilmembers Daysog, deHaan, Gilmore,
Matarrese, and Mayor Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(05-001) Public Employment; Title: City Manager.

(05-002) Public Employee Performance Evaluation; Title: City
Attorney.

Following the Closed Session, the Special Meeting was reconvened and Mayor Johnson announced that the Council discussed Public Employment and recruitment of the new City Manager, and Public Employee Performance Evaluation of the City Attorney.

Adjournment

There being no further business, Mayor Johnson adjourned the Special Meeting at 7:30 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.